

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE PINKFONG COMPANY INC,

Plaintiff,

-v-

7 DAY STORE, *et al.*,

Defendants.

22 Civ. 4133 (PAE)

AMENDED ORDER

THE PINKFONG COMPANY INC,

Plaintiff,

-v-

AISEVE, *et al.*,

Defendants.

22 Civ. 4135 (PAE)

AMENDED ORDER

PAUL A. ENGELMAYER, District Judge:

On May 20, 2022, plaintiff The Pinkfong Company Inc. (“Pinkfong”) filed sealed Complaints in the above-captioned cases, which allege federal trademark counterfeiting; federal infringement of registered and unregistered trademarks; federal false designation of origin, passing off and unfair competition; federal copyright infringement; and unfair competition under New York common law against 7 day Store and 52¹ other merchants on the Alibaba and

¹ In full, defendants were: 7 day Store, A pleasant trip Store, AIDA TECHLIMITED, Ankang Qinba Manchuang Toys Industry Operation Management Co., Ltd., Baby Family Store, Boom Party Store, Children's Clothes Design Store, Children's Wonder Factory Store, China Bedding-Set Factory Store, Dongguan Everest Technology Co., Ltd., Dongguan Mito Technology Co., Ltd., Dongguan Yikang Plush Toys Co., Ltd., Dropship Plush Toy Store, Emmababy Beautiful Baby Store, FULA-bao Official Store, Fuzhou Yibo Electronic Commerce Co., Ltd., Guangdong Jicheng Craft Products Co., Ltd., Guangzhou Kingkong Industrial Co., Ltd., Hang Wing Plastic Industry Co., Ltd., Happy House Party Store, Hi party Store, HMXRBY 2022 Children s

AliExpress online marketplace platforms (the “7 day Store defendants”), which was filed at docket No. 22 Civ. 4133, Dkts. 12 (unsealed), 21 (discussing same), and against Aiseve and 53² other merchants on the Amazon.com online marketplace platform (“Aiseve defendants”), which was filed at docket No. 22 Civ. 4135, Dkts. 11 (unsealed), 22 (discussing same). That same day, Pinkfong filed proposed temporary restraining orders (“TRO”), memoranda of law, and supporting declarations and exhibits. *See* No. 22 Civ. 4133, Dkts. 16–19 (7 day); No 22 Civ. 4135, Dkts. 17-20 (Aiseve). Also that same day, the Court granted the TROs, ordering Pinkfong, *inter alia*, to serve each defendant by alternative means, and defendants to show cause as to why a preliminary injunction should not issue at an in-person hearing on June 3, 2022. *See* No 22 Civ. 4133, Dkts. 20 (7 day TRO), 22 (discussing same); No. 22 Civ. 4135, Dkt. 21 (Aiseve TRO), Dkt. 23 (discussing same).

Clothing Factory Store, J-L Store Store, JOYMEMO Party Town Store, Kayoli baby Store, LI DU Homes Store Store, LITCHI backdrop Store, luckyhome66 Store, MILULU88 Store, - Naughty baby Store, Palala Toy's Store, QiuQiu Party Store, SHENZHEN OXOFUN TECHNOLOGY LIMITED, Shenzhen Yishangju Technology Co., Ltd., Shop 119457639 Store, Shop 169276549 Store, Shop1100269143 Store, Shop912624424 Store, sweethome376688 Store, WangQianYu Store, Xiamen Better Supply Chain Co., Ltd., Xiaoboding Store, Yiwu All Shine Import & Export Co., Ltd., Yiwu Allo Trading Co., Ltd., Yiwu Aullan Import & Export Co., Ltd., Yiwu Baochang Trading Co., Ltd., Yiwu Juqi Trading Co., Ltd., Yiwu Tuyue Electronic Commerce Co., Ltd., Young Play Store, YY Waroom Store, Zhaoqing Junjie Technology Co., Ltd., Zhejiang Leadershow Hometextile Co., Ltd, and ZHISUXI Official Store.

² In full, these defendants were: Aiseve, Albabe, AloParty, Baby Party US, Bday Party Favor, Best Buy Best Deals Direct, Bi Xing, chenhanxinn, chichongruiii, ChristopherkkMartin, Chunyus, DDI, duobake, Enlargeryou, Family Pro, Feishang Store, Friends US, GRATULON-USA, huangshishiyunongdianziyouxiangongsi, JiLinShengZhiLiChaoYueShangMao, kunmingniaotaodianzisha, Langshangduo, lilipingde, LSHOME US, luolaijian, MAST-US, Miss Zheng's shop, mouqin, N3wxstarec, newdiscover, NKZGZC, PuPuFly, qikunshangmao, QT-US, qunai, qwfqwfwgfg, Rainbow Party US, Rixiong, SAMAHARA, Sengmi, shdhdhdh, shumintaoin, skoter, SZHF.LLC, Uobaby, whine store, WONDERFUL MEMORIES, yijuguojiwuliu, yingsumei, Youhada, YoungG, Zhenka Shop, Zuou and 成都张玫云商贸部.

On May 27, 2022, Pinkfong requested modifications and extensions of the TROs, and adjournment of the show cause hearing to June 17, 2022, which the Court granted the same day. No. 22 Civ. 4133, Dkt. 22; No. 22 Civ. 4135, Dkt. 23.

On May 27, 2022, Pinkfong served the Aiseve defendants with process pursuant to the alternative means of service authorized in the revised TRO, making their deadline to answer or respond June 17, 2022. No. 22 Civ. 4135, Dkts. 23, 26. On June 8, 2022, served the 7 day Store defendants—except for defendants QiuQiu Party Store, SHENZHEN OXOFUN TECHNOLOGY LIMITED, and Shop1100269143 Store—also with process pursuant to the alternative means of service authorized in the revised TRO, making their deadline to answer or otherwise respond June 29, 2022. No. 22 Civ. 4133, Dkts. 22, 26 (service), 24 (unable to serve three defendants).

On June 17, 2022, the Court held the show-cause hearing in both cases, at which all defendants failed to appear. The Court accordingly converted the TRO into a preliminary injunction. *See* No. 22 Civ. 4133, Dkt. 8 (7 day); No. 22 Civ. 4135, Dkt. 8 (Aiseve). On June 19, 2022, Pinkfong served Shop1100269143 Store. No. 22 Civ. 4133, Dkt. 26.

On June 22, 2022, Pinkfong served all Aiseve defendants, No. 22 Civ. 4135, Dkt. 27, and all 7 day Store defendants, except QiuQiu Party Store and SHENZHEN OXOFUN TECHNOLOGY LIMITED, No. 22 Civ. 4133, Dkt. 27, with the preliminary injunction pursuant to the alternative means of service authorized in the TRO. No defendant responded to the Complaint or otherwise appeared in this action.

On June 29, 2022, Pinkfong gave notice of its voluntary dismissal, pursuant to Rule 41, of its claims against QiuQiu Party Store and SHENZHEN OXOFUN TECHNOLOGY LIMITED. No 22 Civ. 4133, Dkt. 23. On July 20, 2022, the Court approved the voluntary

dismissal. No. 22 Civ. 4133, Dkt. 25. On July 22, 2022 and August 10, 2022, Pinkfong gave notice of its of its voluntary dismissal, pursuant to Rule 41, of its claims against SZHF.LLC and Best Buy Best Deals Direct, respectively. No. 22 Civ. 4135, Dkts. 24–25. On August 21, 2022, the cases were accepted as related. On August 23, 2022, the Court approved both voluntary dismissals. No. 22 Civ. 4135, Dkts. 28–29.

On August 24, 2022, Pinkfong requested leave to move for default judgment in both cases. No. 22 Civ. 4133, Dkt. 28; No. 22 Civ. 4135, Dkt. 30. On August 25, 2022, the Court granted Pinkfong's request. No. 22 Civ. 4133, Dkt. 29; No. 22 Civ. 4135, Dkt. 31.

On September 9 and September 27, 2022, Pinkfong gave notice of its voluntary dismissal, pursuant to Rule 41, of its claims against, respectively, Xiamen Better Supply Chain Co. Ltd., No. 22 Civ. 4133, Dkt. 30, and YoungG, No. 22 Civ. 4135, Dkt. 32. On September 14, and October 3, 2022, also respectively, the Court approved the dismissals. No. 22 Civ. 4133, Dkt. 31; No. 22 Civ. 4135, Dkt. 33.

On October 21, 2022, Pinkfong filed for entry of default as to 7 day Store defendants with the Clerk of Cour. No. 22 Civ. 4133, Dkt. 32–34. On October 24, 2022, Pinkfong filed for entry of default as to Aiseve defendants with the Clerk of Court. No. 22 Civ. 4135, Dks. 34–35. On October 24, 2022, the Clerk of Court issued certificates of default as to all defendants, No. 22 Civ. 4133, Dkt. 34; No. 22 Civ. 4135, Dkt. 36, and Pinkfong moved for default judgment against all defendants, a memorandum of law, affidavit, and exhibits in support, and a proposed order of default judgment, No. 22 Civ. 4133, Dkts. 35–38 (7 day Store); No. 22 Civ. 4135, Dkt. 37–40 (Aiseve).

On November 1, 2022, the Court ordered any defendant wishing to oppose the motion, by November 22, 2022, to show cause why a default judgment is not warranted. No. 22 Civ. 4133,


Dkt. 40; No. 22 Civ. 4135, Dkt. 42. On November 1, 2022, Pinkfong served the November 1, 2022 order to show cause on all defendants. No. 22 Civ. 4133, Dkt. 41; No. 22 Civ. 4135, Dkt. 43.

On November 18, 2022, Pinkfong gave notice of its voluntary dismissal, pursuant to Rule 41, of its claims against shumintaojin. No. 22 Civ. 4135, Dkt. 44. On November 21, 2022, the Court approved the dismissal. Dkt. 45.

The Court has reviewed Pinkfong's motions for default judgment pursuant to Federal Rule of Civil Procedure 55(b) and supporting affidavit and submissions. No. 22 Civ. 4133, Dkts. 35–38; No. 22 Civ. 4135, Dkts. 37–40. Because proof of service has been filed, each defendant has failed to answer the Complaint, the time for answering the Complaint has expired, and each defendant has failed to appear to contest the entry of a default judgment, the Court enters a default judgment for Pinkfong against all remaining defendants.

The Court will refer the case, by separate order, to Magistrate Judge James L. Cott for a damages inquest and analysis as to the appropriateness of injunctive relief. Pinkfong shall serve this Order upon each defendant and file affidavits reflecting such service on the docket by January 3, 2022. The Clerk of Court is respectfully directed to close the motions pending at No. 22 Civ. 4133, docket 5, and No. 22 Civ. 4135, docket 37.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: December 20, 2022
New York, New York